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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Shasta)

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM WADSWORTH WILLIAMS,

Defendant and Appellant.

C080830

(Super. Ct. No. 97F4644)

Appointed counsel for defendant William Wadsworth Williams asks this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) Finding no arguable error that would result in a disposition more favorable to defendant, we affirm the judgment.

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

In 1997, defendant pleaded guilty to continuous sexual abuse of a child (Pen. Code, § 288.5, subd. (a)) and was sentenced to serve 12 years in prison. He was later involuntarily committed as a mentally disordered offender.

In 2011, he was released to an outpatient treatment program. In mid 2012, his outpatient treatment was terminated and he was returned to inpatient treatment, after violating several of his program's terms. One violation was for visiting unsupervised two areas where children congregate: a bowling alley and McDonalds with a play area. Two other violations were for buying a prohibited electronic item (an iPod Touch with a camera) and possessing another electronic device (a Samsung smart phone with a camera). Defendant has remained in inpatient treatment ever since.

In late 2015, the district attorney petitioned to extend defendant's commitment, under Penal Code section 2970. A hearing was held.¹

At the hearing, a psychologist who had performed a forensic evaluation of defendant testified. She testified defendant had been engaging in sex offender treatment and was performing well "in many areas" by "actively participating" and "complet[ing] assignments on a regular basis. But he had a pattern of obtaining electronic devices, knowing it violated his treatment plan. While on inpatient treatment, he had been found

¹ Midway through the hearing, defendant brought a *Marsden* motion (*People v. Marsden* (1970) 2 Cal.3d 118). He explained he had asked his attorney to hire an evaluator to evaluate his suitability for outpatient treatment. The evaluator defendant requested was apparently too expensive. His counsel found a local expert, but the expert did not personally evaluate defendant or receive defendant's records. Rather the expert testified solely on inpatient versus outpatient treatment. Defendant acknowledged this was not a situation where he was not communicating with his counsel. The court denied the motion, explaining: "I just don't think it amounts to a situation where the relationship between [you and] your attorney has broken down to the extent that it requires the appointment of a different attorney"

with an electronic device containing movies with children -- the movies were not illegal, but they involved (for defendant) age-inappropriate children. More recently, defendant was twice found with electronic devices. Defendant had also failed to complete a penile plethysmography test (PPG), a test that measures deviant arousal patterns, “essentially refusing or indicating he did not want to complete those measures.” The psychologist opined, “if he’s having difficulty following recommendations in a highly structured environment, in my opinion, that would increase his risk of possibly having difficulty complying with conditions in a less structured environment such as CONREP [(the conditional release program)].”

The psychologist opined defendant still represented “a substantial danger of physical harm to others due to his severe mental disorder.” In treatment, he had not reached the point where he could manage his urges in the community without structure, and he would be at risk of reoffending.

Defendant testified. As to his violation for going to the bowling alley and McDonalds, he explained he had gone as part of an organized group outing. But the group supervisor failed to show up. Defendant did not leave, thinking the supervisor would eventually show up. He had previously been to the bowling alley as part of a supervised outing.

As to having prohibited devices while on outpatient treatment, defendant explained he had a “thing” for electronics. He used the iPod for music, and he was holding the Samsung phone for a friend, while he was trying to fix it.

As to being found with contraband while an inpatient, defendant admitted to “several” violations involving media devices and memory cards. The memory cards contained music (in large part), movies, and TV series. From being found with contraband, he had learned, “it’s my job” to “tailor my behaviors to live within those

boundaries that they have established, even if, and especially if, I don't like them or don't think they're fair."

As to refusing to take a PPG test, he had taken one in 2003 and did not feel there was reason to consent to taking it again. He understood PPG results are static, and do not change with time.

He testified that if he were allowed outpatient treatment, he would comply with his terms. Outpatient treatment would be safe and provide him better treatment than inpatient treatment. On cross-examination, he denied having a deviant attraction to children, noting he occasionally had deviant thoughts but could push them aside using techniques developed through years of treatment.

The trial court found beyond a reasonable doubt that defendant had a severe mental disorder; the disorder was not in remission or could not become in remission without treatment; and by reason of the disorder, defendant constituted a substantial danger of physical harm to others. The court further found sufficient evidence treatment should continue.

The trial court then found defendant had not shown reasonable cause to believe he could be safely treated on an outpatient basis. It noted defendant's removal from outpatient treatment in 2012. And despite being terminated from outpatient treatment in part for possessing electronic devices, he continued to possess electronic devices as recently as May and June of 2015. He also chose not to cooperate in taking a PPG. The court denied his request for outpatient treatment.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief setting forth the facts of the case and requests this court to review the record to determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised of his right to file a supplemental brief within 30 days of

the date of filing of the opening brief. More than 30 days elapsed, and we have received no communication from defendant.

Having examined the record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

_____/s/
HOCH, J.

We concur:

_____/s/
NICHOLSON, Acting P. J.

_____/s/
ROBIE, J.